BEFORE THE BOARD OF BEHAVIORAL SCIENCE OF THE STATE OF IOWA

IN THE MATTER OF: NO. 13-010

DIA NO. 13BS002

CHANDA PETERMANN, LMHC FINDINGS OF FACT,

CONCLUSIONS OF LAW,

Respondent DECISION AND ORDER

On August 8, 2013, the Iowa Board of Behavioral Science (Board) filed a Notice of Hearing and Statement of Charges against Chanda Petermann, LMHC (Respondent) charging her with two counts:

Count I: Submission of a false report of continuing education or failure to

submit the biennial report of continuing education, in violation of

645 IAC 33.2(22).

Count II: Violation of a regulation or law of this state, another state, or the

United States, which relates to the practice of the profession for failing to comply with the audit requirements set forth in 645 IAC

4.11, in violation of 645 IAC 33.2(13).

The hearing was held on November 7, 2013 at 9:50 a.m. in the Lucas State Office Building, fifth floor conference room, Des Moines, Iowa. Respondent failed to appear for hearing. The state was represented by Assistant Attorney General Laura Cathelyn. The following Board members were present for the hearing: Erik Oostenink, MHC, Chairperson; Amy Crow Sunleaf, MHC; Sarah Thomas, MFT; Daniel Harkness, MFT; Wade Leuwerke, Sherill Whisenand, and Jill Struyk, Public Members. Administrative Law Judge Margaret LaMarche assisted the Board in conducting the hearing. The hearing was open to the public, pursuant to Iowa Code section 272C.6(1)(2013), and was recorded by a certified court reporter. After hearing all the evidence and examining the exhibits, the Board convened in closed session, pursuant to Iowa Code section 21.5(1)(f)(2013), to deliberate its decision. The administrative law judge was instructed to prepare the Board's written decision, in accordance with its deliberations.

THE RECORD

The record includes State Exhibits 1-7 (See Exhibit Index for description)

FINDINGS OF FACT

- 1. On August 26, 1998, Respondent Chanda Petermann was initially issued Iowa license 00354 to practice as a mental health counselor. Respondent's Iowa license is current and will expire on September 30, 2014. (Exhibit 6)
- 2. On October 1, 2012, Respondent renewed her license online for the biennial license period that extended from October 1, 2010 through September 30, 2012. On her renewal application, Respondent affirmatively stated that she had completed the required hours of continuing education to renew her license. Respondent also indicated that she examines, attends, counsels or treats dependent adults and/or children in Iowa and that she has completed the required training within the last five years.¹ (Exhibit 7).
- 3. As a licensed mental health counselor, Respondent is required to complete a minimum of 40 hours of continuing education approved by the Board during each biennium.²
- 4. On December 12, 2012, Board staff sent Respondent a letter notifying her that she had been selected for a post renewal continuing education audit. Board records indicate that Respondent was selected for audit because she renewed her license during the grace period. The letter informed Respondent that she was required to:
 - verify that her continuing education has met the standards and criteria required for her last license renewal;
 - complete the enclosed Post Renewal Continuing Education Audit Report form;
 and

¹ Health practitioners who examine, attend, or treat children or who provide care to adults in the scope of their professional practice are mandatory reporters of abuse and are required to complete two hours of abuse identification and reporting training every five years. Iowa Code sections 232.69(1)(a), 232.69(3)(b), 235B.16(5)(b) (2011, 2013).

² 645 IAC 32.2(1).

• provide individual copies of certificates of program or course completion issued to her by the course sponsor. The documents were required to identify the course title, date(s), contact hours, sponsor and licensee's name.

The audit letter further informed Respondent that she must provide the requested information by January 11, 2013 to meet audit requirements. The letter included the name and telephone number of a Department staff member that Respondent could contact if she had any questions. (Exhibits 3, 6)

- 5. Board records indicate that Respondent's husband contacted the Board office on January 11, 2013 at about 4:15 p.m. to report that Respondent was sick and would mail her audit packet the following day. A Board staff person told Respondent's husband that this would be acceptable and documented their conversation for the Board's records. The Board did not receive any audit documents from Respondent, however, and her case was referred to discipline. (Exhibit 6)
- 6. On March 5, 2013, Department staff sent Respondent a second audit letter by certified mail. The second audit letter requested the same documentation as the first letter and provided a new deadline of April 4, 2013. The letter again included the name and telephone number of a Department staff member that Respondent could contact if she had any questions. Respondent signed the return receipt for the second audit letter on March 6, 2013. Respondent did not reply to the second audit letter and did not submit any certificates of continuing education by the April 4, 2013 deadline. (Exhibits 4, 5, 6)
- 7. The Board filed its Notice of Hearing and Statement of Charges against Respondent on August 8, 2013. The Notice of Hearing and Statement of Charges was served on Respondent by personal service on September 23, 2013. As of the date of hearing, Respondent had not submitted any documentation of continuing education in response to the Board's audit. Respondent also failed to appear for hearing. (Exhibits 1, 2)

CONCLUSIONS OF LAW

Pursuant to Board rule, the biennial continuing education compliance period shall extend for a two-year period beginning on October 1 of the even numbered year and ending on September 30 of the next even numbered year. Licensees are required to

complete a minimum of 40 hours of continuing education approved by the Board for each subsequent license renewal following their first renewal.³

Following license renewal, the Board is authorized to audit licensees for compliance with the continuing education requirement.⁴ When audited, licensees are required to provide an individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor. These documents must contain the course date, title, contact hours, sponsor, and licensee's name.⁵ This information must be submitted within 30 days after the date on the letter of notification of audit. Extension of time may be granted on an individual basis.⁶

For auditing purposes, all licensees must retain their certificates of completion for two years after the biennium has ended.⁷ If the submitted materials are incomplete or unsatisfactory, the licensee may be given the opportunity to submit make-up credit to cover the deficit found through the audit. The deadline for receipt of documentation of make-up credit is 90 days from the date of mailing of the notice of deficit to the address of record at the board office. The licensee shall be re-audited following the next renewal period when make-up credit has been accepted.⁸

The Board may impose any of the disciplinary sanctions provided in rule 645 IAC 33.3 when the Board determines that the licensee has violated a regulation or law of this state, another state, or the United States, which relates to the practice of the profession. The Board may also impose any of the disciplinary sanctions provided in rule 645 IAC 33.3 when the Board determines that the licensee failed to submit the required report of continuing education or has submitted a false report of continuing education. The submitted a false report of continuing education.

The preponderance of the evidence established that Respondent violated 645 IAC 33.2(22) when she submitted a false report that she had completed the continuing education required to renew her license. [Count I] The preponderance of the evidence further established that Respondent violated Iowa Code 645 IAC 33.2(13) when she

³ 645 IAC 33.2(1).

⁴ 645 IAC 4.11.

⁵ 645 IAC 4.11(1)"a."

^{6 645} IAC 4.11(1)"b."

⁷ 645 IAC 4.11(2).

^{8 645} IAC 4.11(3).

^{9 645} IAC 33.2(13).

^{10 645} IAC 33.2(22).

failed to comply with the continuing education audit requirements of 645 IAC 4.11. [Count II].

When Respondent renewed her license during the grace period, she affirmatively stated on the renewal application that she had completed the required hours of continuing education. As of the date of the hearing, Respondent had not provided verification of her completion of any of the continuing education that was required for her license renewal in October 2012. Respondent has been given repeated opportunities to comply with the audit and to verify that she has completed the required continuing education but has failed to do so. The circumstances of these violations are further aggravated because Respondent failed to appear for the hearing before the Board.

Respondent has repeatedly failed to respond to notices from the Board and has failed to show that she has met the qualifications for license renewal by completing the required hours of continuing education. The Board has determined that these circumstances justify suspending Respondent's license until she documents her completion of the required hours of continuing education. In addition, Respondent must pay a \$250 civil penalty for the violations and must pay hearing fees.

DECISION AND ORDER

IT IS THEREFORE ORDERED that license number 00354 is hereby SUSPENDED, effective immediately upon service of this Decision and Order.

IT IS FURTHER ORDERED that Respondent shall pay a civil penalty of \$250 within thirty (30) days of the issuance of this Decision and Order.

IT IS FURTHER ORDERED that Respondent's license suspension shall continue until she fully complies with the continuing education audit by submitting proof of completion of the required 40 hours of continuing education and the required abuse training and by paying the \$250 fine and hearing fee. If Respondent does not have the required materials to satisfy the audit, then she may make-up the continuing education credits and may submit documentation for the make-up credits. These make-up credits may not be used to meet the continuing education requirement for any other licensing biennium.

IT IS FURTHER ORDERED, pursuant to Iowa Code section 272C.6, that Respondent Chanda Petermann shall pay \$75.00 for fees associated with the disciplinary hearing

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and \$55.00 for the court reporter fees. The total fees of \$130.00 shall be paid within thirty (30) days of receipt of this decision.

Dated this 21st day of November, 2013.

End Ontent, MILMHC

Erik Oostenink, MHC, Chairperson Iowa Board of Behavioral Science

Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final agency action, unless, within 15 days after the date of notification or mailing of this decision, a motion to vacate is filed and served on all parties or an appeal of the decision on the merits is timely initiated. A motion to vacate shall state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact attached to the motion. 645 IAC 11.21(3). The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate. 645 IAC 11.21(4).

Pursuant to Iowa Code section 17A.19(2013) and 645 IAC 11.29, any appeal to the district court from a decision in a contested case shall be taken within 30 days from the issuance of the decision by the board. The appealing party shall pay the full costs for the transcript of the hearing. 645 IAC 11.23.

Laura Cathelyn, Assistant Attorney General